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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,514	11/30/2000	Michael P Hollier	36-1413	5206
23117	7590	10/22/2003	EXAMINER	
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714			NATNAEL, PAULOS M	
			ART UNIT	PAPER NUMBER
			2614	
DATE MAILED: 10/22/2003				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/701,514	HOLLIER, MICHAEL P
	Examiner	Art Unit
	Paulos M. Natnael	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 August 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

1. The reference of Bickmore et al. was inadvertently left on the heading of the rejection under 35 USC 103 on page 6 of the previous Office Action. Since the rejection was made on grounds of Official Notice, the said reference was not necessary. The Examiner regrets the confusion.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al., U.S. Pat. No. 5,596,364.

Considering claim 1, Wolf et al disclose the following claimed subject matter, note;

a) measuring the actual synchronization errors between the audio and visual elements of the stimulus is met by audio-visual synchronization processor 160, Fig.6, which outputs audio-visual sync value S\_av. (col. 12, lines 60-64)

b) generating a measure of subjective quality from said errors and characteristics is met by the disclosure "Subjective human test panel results are generated for a variety of

audio-video test samples and objective test results are also generated by the apparatus..” (See Abstract).

c) analyzing the audio and visual elements of the stimulus for the presence of characteristic features indicative of the significance of synchronization errors, is met by the disclosure “the audio-visual synchronization unit 160 in FIG. 7 uses the video delay 15 d.sub.v as output by the video alignment processor 50 and the audio delay 115 d.sub.a as output by the audio alignment processor 150 and produces the audio-visual synchronization 165 s.sub.av. Advantageously, the audio-visual synchronization s.sub.av provides a measure of the perceptual change in audio-visual synchronization from a source of audio-visual information to a destination of audio-visual information via a transmission channel.” (col. 14, lines 4-12)

d) modifying the measure of subjective quality according to whether said characteristic feature are present, is met by the disclosure that “Subjective tests are normally performed by having a large panel of viewers judge the perceived video quality. However, these subjective tests are very expensive and time consuming to conduct.” (col. 3, lines 32-36) “Subjective testing 39 is conducted using the source video 1, the impaired destination video 5', and a large panel of viewers to judge the impairment of the impaired destination video 5' with respect to the source video 1. The subjective testing 39 produces the viewing panel results 40. (col. 6, lines 52-56)

Except for;

b) identifying characteristics of audio and visual cues in the stimulus;

Regarding b) Wolf et al. discloses a perception-based audio visual synchronization measurement system wherein "Subjective human test panel results are generated for a variety of audio-video test samples and objective test results are also generated by the apparatus and measurement of audio visual synchronization are conducted." (see Abstract) The audio-visual synchronization processor 160, Fig.6, measures the synchronization S\_av 165 by measuring the audio and video delays.

Therefore, it would have been obvious to the skilled in the art at the time the invention was made to modify the system of Wolf et al. by identifying the characteristics of the audio and visual cues, because analysis and measurement of the audio-visual synchronization would not be done without initially identifying the characteristics of the audio and visual cues.

Considering claim 2, the claimed wherein the characteristics of the audio and visual cues are used to generate one or more synchronization error tolerance values.

Regarding claim 2, see rejection of claim 1 (a).

Considering claim 3, a method as claimed in claim 2, wherein the audio-visual stimulus is monitored for occurrences of synchronization errors exceeding such tolerance values, is met by the disclosure that "Preferably, the time alignment processor 34 only computes the video delay (d.sub.v) when motion is present in the source video. When

there is no motion in the source video, the video delay need not be measured. The standard deviation of the  $x_{\text{sub},2}(t_{\text{sub},N})$  time series is used to determine the amount of motion in the source video, and hence serves as a useful method for determining the threshold below which there is no motion." (see col. 9, lines 46-53; see also rejection of claim 1(a)).

Considering claim 4, a method according to claim 3, wherein the means generating the stimulus is controlled to maintain the synchronization in a predetermined relationship with the said tolerance values.

Regarding claim 4, see rejection of claim 3.

Considering claim 5, wherein the resulting measure of subjective quality is used to control the operation of an avatar animation process;

Regarding claim 5, Wolf et al. discloses, "The video portion of the invention may be used to measure the video quality and video delay of transmission channels. The video may include moving images as well as still images." (col. 1, lines 16-19) Wolf et al. does not specifically disclose whether or not the result of the measurement of subjective quality is to control the operation of an avatar animation process. However, Examiner takes Official Notice in that it is well known in the art that an avatar or character animation processing requires the synchronization of the audio/voice of the character with the character's movements.

Therefore, it would have been obvious to the skilled in the art at the time the invention was made to modify the system of Wolf et al. by providing an avatar or character animation processing capability in order to be able to control more systems and enhance the usefulness of the system.

Considering claim 6, apparatus for determining the subjective quality of an audio-visual stimulus, comprising:

- a) means for measuring the actual synchronization errors between the audio and visual elements of the stimulus, is met by audio-visual synchronization processor 160, Fig.6. (col. 12, lines 60-64)
  
- c) means for generating a measure of subjective quality from said synchronization errors and characteristics, is met by the disclosure "Subjective human test panel results are generated for a variety of audio-video test samples and objective test results are also generated by the apparatus.." (See Abstract).
  
- d) means for analyzing the audio and visual elements of the stimulus for the presence of characteristic features indicative of the significance of synchronization errors, is met by the disclosure "the audio-visual synchronization unit 160 in FIG. 7 uses the video delay 15 d.sub.v as output by the video alignment processor 50 and the audio delay 115 d.sub.a as output by the audio alignment processor 150 and produces the audio-visual synchronization 165 s.sub.av. Advantageously, the audio-visual

synchronization s.sub.av provides a measure of the perceptual change in audio-visual synchronization from a source of audio-visual information to a destination of audio-visual information via a transmission channel." (col. 14, lines 4-12)

e) means for modifying the measure of subjective quality according to whether said characteristic feature are present, "Designers of video transmission equipment and standards organizations have resorted to using subjective tests when they require accurate measurements of video quality., is met by the disclosure that "Subjective tests are normally performed by having a large panel of viewers judge the perceived video quality. However, these subjective tests are very expensive and time consuming to conduct." (col. 3, lines 32-36) "Subjective testing 39 is conducted using the source video 1, the impaired destination video 5', and a large panel of viewers to judge the impairment of the impaired destination video 5' with respect to the source video 1. The subjective testing 39 produces the viewing panel results 40. (col. 6, lines 52-56)

Except for;

b) means for the identifying characteristics of audio and visual elements of the stimulus;

Regarding b), see rejection of claim 1(b).

Considering claim 7, apparatus according to claim 6, wherein the means for identifying cue characteristics generates one or more synchronization error tolerance values.

Regarding claim 7, see rejection of claim 3;

Considering claim 8, apparatus as claimed in claim 7, comprising means for monitoring the audio-visual stimulus for occurrences of synchronization errors exceeding said tolerance values.

Regarding claim 8, see rejection of claim 3;

Considering claim 9, apparatus according to claim 8, comprising means for controlling the means generating the stimulus to maintain the synchronization in a predetermined relationship with the said tolerance values;

Regarding claim 9, see rejection of claim 4.

Considering claim 10, the apparatus according to claim 9, further comprising animation process means controlled by the subjective quality measurement means to generate an animated image;

Regarding claim 10, see rejection of claim 5.

### ***Response to Arguments***

4. Applicant's arguments filed August 8, 2003 have been fully considered but they are not persuasive. Following is a response

Applicant's Arguments

- a) In particular, Applicant's invention measure the synchronization error between audio and video and does so by matching video cues with audio cues, and measuring the delay between them... Thus, while the cited reference is only comparing features within the same media, between the reference and degraded signals, for audio and then the same for video, Applicant's invention is matching events across medias, i.e., audio to video, and without using a reference signal.
- b) Thus, a key distinction Wolf et al. and Applicant's invention is that Wolf et al is aligning in time to curves of identical nature, while Applicant's invention is cross-model...
- c) It should be clear from the above discussion that Bickmore et al. does not solve the deficiencies noted above with respect to Wolf et al.

Examiner's Response

- a) Wolf et al. disclose a perception-based audio visual synchronization measurement system. Wolf et al teach that "the audio-visual synchronization unit 160 in FIG. 7 uses the video delay 15 d.sub.v as output by the video alignment processor 50 and the audio delay 115 d.sub.a as output by the audio alignment processor 150 and produces the audio-visual synchronization 165 s.sub.av. Advantageously, the audio-visual synchronization s.sub.av provides a measure of the perceptual change in audio-visual synchronization from a source of audio-visual information to a destination of audio-visual information via a transmission channel. (col. 1, 32-35, see Figs. 2 and 7)

Wolf et al. discloses that the audio alignment processor 150 would compute the correct audio delay 115 and the video alignment processor 50 would compute the correct video delay 15. In conditions (1) and (2) above, if both the audio delay and the video delay are measured, then the audio-visual synchronization processor 160 would compute the correct audio-visual synchronization 165. Finally, if one only desires to measure the audio-visual synchronization (and not the audio delay or video delay), then only the relative timing between the audio and video features needs to be preserved. The timing between the source features (7, 108) and the destination features (9, 110) does not have to be preserved. » (col. 14, lines 4-55)

As can be seen above, the Wolf et al reference computes sync error between the audio and video, albeit separately, as does the claimed invention. Therefore, the argument is unpersuasive.

b) Applicant is arguing something that isn't found in the claims. See also rejection in Part A.

c) The reference of Bickmore et al. was inadvertently left on the heading of the rejection under 35 USC 103. Since the rejection was made on grounds of Official Notice, the said reference was not necessary. The Examiner regrets the confusion.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paulos M. Natnael whose telephone number is (703) 305-0019. The examiner can normally be reached on 10:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (703) 305-4795. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

Paulos Natnael *Plnw*  
October 19, 2003

*MH*  
**MICHAEL H. LEE**  
**PRIMARY EXAMINER**